

## ASSEMBLY THIRD READING

AB 1808 (Carrillo)

As Amended April 22, 2026

Majority vote

**SUMMARY**

Authorizes the Department of Fish and Wildlife (CDFW) to enter into an agreement with any city to delegate to the city the taking of a western Joshua tree associated with commercial and industrial projects and authorizes CDFW to permit, without payment of fees or other mitigation, the removal or trimming of a western Joshua tree by the owner of an existing single-family residence or by the proponent of a public works project, under certain circumstances.

**Major Provisions**

- 1) Authorizes CDFW to enter into an agreement with any city to delegate to the city the taking of a western Joshua tree associated with commercial and industrial projects.
- 2) Prohibits the taking of more than 40 individual trees for commercial or industrial projects that are permitted through the delegated authority to cities and prevents commercial and industrial projects from using the lower fee schedule.
- 3) Enables CDFW to authorize by permit, without payment of fees or other mitigation, both of the following:
  - a) The removal of no more than ten western Joshua trees or trimming of western Joshua trees by a single-family homeowner of a western Joshua tree that is either of the following:
    - i) Within 30 feet of the existing single-family residence or within 15 feet of an existing accessory structure; or
    - ii) Within the construction footprint, or within 15 feet of the construction footprint, of a new accessory structure that is proposed to be constructed for the existing single-family residence.
  - b) The removal of no more than 40 western Joshua trees or trimming of western Joshua trees by the proponent of a public works project of a western Joshua tree that is within the construction footprint, or within 15 feet of the construction footprint, of the public works project to repair, rehabilitate, replace, or maintain an existing structure.
- 4) Requires the property owner or public works project developer seeking a permit to submit a request to CDFW on a form, provided by CDFW, that requires the following information:
  - a) The name, telephone number, mailing address, and email address of the property owner or public works project developer seeking the permit;
  - b) The street address or assessor's parcel number of the single-family residence or public works project on which each western Joshua tree requested to be removed or trimmed is located;

- c) A statement as to whether each western Joshua tree requested to be removed or trimmed meets the conditions described in 3, above;
  - d) The size class of each western Joshua tree requested to be removed or trimmed;
  - e) The distance of each western Joshua tree requested to be removed or trimmed from the single-family residence, existing accessory structure, or construction footprint of a new accessory structure that is proposed to be constructed or of the public works project; and
  - f) Photographs of each western Joshua tree requested to be removed or trimmed that depict its location relative to the single-family residence, existing accessory structure, or construction footprint of a new accessory structure that is proposed to be constructed or of the public works project.
- 5) Within 60 days of receipt of a request for a permit, requires CDFW to do either of the following:
- a) Notify the property owner or public works project developer that CDFW will issue a permit for the removal or trimming of the western Joshua tree; or
  - b) Deny the request and include a brief description explaining why a permit cannot be issued.
- 6) Exempts permits issued pursuant to 3a, above, from the California Environmental Quality Act (CEQA), until CDFW certifies a Programmatic Environmental Impact Report (PEIR) that addresses actions with the potential to result in limited take of western Joshua trees from single-family residences and accessory structures, and there is a final, unappealable judgment in litigation, if any, challenging the PEIR.

## COMMENTS

The western Joshua tree, *Yucca brevifolia*, is a member of the Agave family. The Joshua tree is a monocot in the subgroup of flowering plants that also includes grasses and orchids. Many birds, mammals, reptiles, and insects depend on the Joshua tree for food and shelter. Populations of western Joshua trees within California have declined following European settlement of the Mojave Desert region, primarily due to habitat loss and degradation related to agricultural conversion and development. CDFW estimates that approximately 30% of the habitat occupied by western Joshua trees in California may have been modified between European settlement and the present.

To provide protections to western Joshua trees and hopefully prevent an official listing under the California Endangered Species Act (CESA), while enabling development, the Western Joshua Tree Conservation Act (WJTCA) was enacted in 2023. WJTCA prohibits the importation, export, take, possession, purchase, or sale of any western Joshua tree in California unless authorized by CDFW. WJTCA authorizes CDFW to issue permits for the incidental take of one or more western Joshua trees if the permittee meets certain conditions. Permittees may pay specified fees in lieu of conducting mitigation activities. WJTCA also authorizes CDFW to issue permits for the removal of dead western Joshua trees and the trimming of live western Joshua trees under certain circumstances.

Pursuant to the WJTCA, CDFW may enter into an agreement with any county or city to delegate limited authority to permit the take of a western Joshua tree associated with developing single-family residences, multifamily residences, accessory structures, and public works projects (Delegation Agreements). Delegation Agreements for this purpose limit the number of trees that may be taken depending on the type of project. CDFW may similarly enter into Delegation Agreements with any county or city to permit the removal of dead western Joshua trees and the trimming of live western Joshua trees. Delegation Agreements became available as of February 28, 2024. To date, no delegation agreements have been approved.

Under WJTCA, all in-lieu fees collected will be deposited into the Western Joshua Tree Conservation Fund (Conservation Fund) for appropriation to CDFW solely for the purposes of acquiring, conserving, and managing western Joshua tree conservation lands and completing other activities to conserve the western Joshua tree. Additionally, WJTCA requires CDFW to develop and implement a western Joshua tree conservation plan in collaboration with governmental agencies, California Native American tribes, and the public. CDFW must also develop annual reports assessing the conservation status of the western Joshua tree and submit them to the Commission and the State Legislature no later than January 1 of each year, starting in 2025. The Commission is expected to postpone final consideration of the petition to list the western Joshua tree until CDFW submits an updated status review to the Commission no later than January 1, 2033.

CDFW also implemented two permitting systems: as of March 2026, 106 WJTCA incidental take permits (ITPs) and 742 hazardous management permits have been issued. Through 2023–2025, 23,854 trees have been authorized for lethal removal. Each permit type takes on average the following number of trees: single-family residence (41), multi-family residence (133), accessory structures (7), public works projects (246), commercial projects (176), and industrial projects (306). As of March 2026, \$14.4 million has been collected from permits, with 283 acres being conserved and more acquisitions planned for this year now that CDFW has contracted with consultants to pursue new conservation opportunities.

The WJTCA included various triggers to evaluate the effectiveness of the act. Beginning in 2026, and at least every two years thereafter, the Commission shall review the status of the western Joshua tree and the effectiveness of the Conservation Plan in conserving the species. Concurrent with each review, CDFW will make recommendations to the Commission, as necessary, for amendments to the Conservation Plan to ensure the conservation of the western Joshua tree. CDFW has recently concluded public comments on the Conservation Plan and expects to present recommendations to the Commission at the August meeting.

By December 31, 2026, and every three years afterward, CDFW is required to adjust fees as necessary to ensure the conservation of the western Joshua tree using "total cost accounting when determining the adequacy of the fees for ensuring conservation of the species, including ensuring sufficient funds for land acquisition or conservation easement costs, monitoring costs, restoration costs, transaction costs, and the amount of endowments for land management or easement stewardship costs." Initial review by CDFW indicates that fees are currently insufficient to satisfy the standards of the WJTCA and will be evaluating alternative fee schedules. Notably, in public meetings, CDFW staff have indicated that they intend to seriously explore reducing the fee burden on small impact projects, such as those for single-family residences, which are a small portion of fee revenues. CDFW is currently drafting an initial

statement of reasons for the regulation change, which is expected to be released this May and will be followed by a public comment period and public meeting in the summer.

CDFW permits the take of a species listed under CESA through ITPs. ITPs enable the take of a CESA-listed species during an otherwise lawful activity. CDFW's issuance of an ITP is considered a discretionary action under CEQA, so before CDFW can issue an ITP, the applicant must have completed the necessary steps under CEQA.

CDFW must also comply with CEQA to issue a take authorization under the WJTCA. CDFW acknowledges that these new regulatory requirements and associated costs can be particularly burdensome on project proponents and property owners seeking individual ITPs for small-scale projects with limited impacts to western Joshua trees. CDFW is currently drafting a PEIR that is intended to provide a streamlined mechanism of CEQA compliance for property owners or land managers engaging in actions that have potential to result in limited take of western Joshua tree, as authorized under the WJTCA. The PEIR also includes coverage of actions by CDFW on its own properties. On November 18, 2025, CDFW noticed its preparation of the PEIR and expects to release the document by fall with certification by early 2027.

### **According to the Author**

"Single-family homeowners who love the western Joshua tree struggle as they are expected to spend tens of thousands of dollars on fees to upgrade from a septic tank or build a shed. Local governments that represent historically disenfranchised areas are expected to spend millions of additional dollars on upgrading infrastructure, some of which haven't been upgraded since the 19th century. All the while these same governments are unable to permit vital economic development projects, as their constituency grows rapidly due to lack of space and affordability in the LA Metropolitan area. We must strike a balance between conservation and the needs of an increase in population."

### **Arguments in Support**

Several entities write in support of this bill sharing the sentiment that this bill provides practical relief from WJTCA for construction needs and for home-owners. They note that this bill will help keep essential projects on schedule, increase the predictability for project managers, and reduce fee burden for home-owners.

### **Arguments in Opposition**

Environmental groups write in with oppose and oppose unless amended positions. They believe that this bill will erode the safeguards of WJTCA. They also indicate that many of the provisions of this bill will impact ongoing efforts at CDFW to ease fees and regulatory burden on smaller projects, such as those that may occur near a single-family property. These groups note that no local government has availed itself of permit delegation authority and request the cap on the number of trees taken for commercial and industrial projects be reduced to ten trees instead of 40 trees. These groups also address the ongoing work at CDFW to respond to some of the issues the author seeking to address in section 2 of this bill. These groups believe section 2 to be duplicative and unproductive and urge that it be deleted.

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee, this bill has the following fiscal impact:

- 1) For section one of the bill (related to delegated agreements), CDFW anticipates minor and absorbable costs. This bill could reduce CDFW's workload by an indeterminate amount by delegating the permitting of some commercial and industrial projects to cities. A person or public agency receiving a take authorization for a commercial or industrial project would pay the required in-lieu fees regardless of whether the project proponent received the take authorization from CDFW or from a city (Conservation Fund).
- 2) For section two of the bill (related to permitting without fees or mitigation), CDFW estimates costs of approximately \$2.4 million in fiscal year (FY) 2027-28 and \$2.1 million in FY 2028-29 and ongoing (General Fund) for nine positions (in CDFW's headquarters as well as regions four, five, and six) to develop and implement the new permitting pathway; prepare new application materials, education and guidance documents, and permit templates; update its website and tracking metrics; consult with applicants; review applications; conduct site visits and determine qualifications for projects; notify applicants within 60 days if CDFW will be able to issue a permit or provide an explanation for denial; and issue permits.

By allowing CDFW to allow for the removal of western Joshua trees, without fees or mitigation, by a single-family residence owner or public works project proponent (subject to the conditions enumerated in the bill), this bill results in annual and ongoing foregone in-lieu fee revenue of an unknown amount, potentially in the hundreds of thousands to low millions of dollars, from these project categories (Conservation Fund).

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year in the 2027-28 FY and ongoing.

## VOTES

### **ASM WATER, PARKS, AND WILDLIFE: 12-0-1**

**YES:** Papan, Jeff Gonzalez, Alanis, Alvarez, Ávila Fariás, Bains, Bennett, Caloza, Gallagher, Hart, Muratsuchi, Rogers

**ABS, ABST OR NV:** Boerner

### **ASM NATURAL RESOURCES: 12-0-2**

**YES:** Bryan, Ellis, Alanis, Connolly, Garcia, Haney, Hoover, Kalra, Macedo, Pellerin, Schultz, Wicks

**ABS, ABST OR NV:** Muratsuchi, Zbur

### **ASM APPROPRIATIONS: 15-0-0**

**YES:** Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

## UPDATED

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